

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 248**

**Introduced by Senator Murray**  
**(Coauthor: Senator Florez)**

February 14, 2003

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An act to amend Sections 415, 426, 3001, 3003, 3051, and 3062 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 248, as amended, Murray. Vehicles: New Motor Vehicle Board: recreational vehicles.

(1) Existing law defines a “new motor vehicle dealer” as a dealer who, among other matters, acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those vehicles. Existing law establishes a New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as specified.

This bill would include a recreational vehicle, as defined, as a motor vehicle for the purposes of this definition and for the purposes of the operation of the board, except for truck campers and park trailers.

(2) Existing law requires 4 of the appointive members of the board to be new motor vehicle dealers, as defined.

This bill would exclude dealers who deal exclusively in recreational vehicles, as defined, from those membership provisions of the board.

(3) Under existing law, if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant

market area where the same line-make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor is required to undertake a specified procedure involving the New Motor Vehicle Board before establishing or relocating the franchise.

This bill would provide that the existing procedure restrictions do not apply to an annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with certain requirements.

The bill would define the term “line-make” for purposes of the sale of new recreational vehicles.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 415 of the Vehicle Code is amended to  
2 read:  
3 415. (a) A “motor vehicle” is a vehicle that is self-propelled.  
4 (b) “Motor vehicle” does not include a self-propelled  
5 wheelchair, invalid tricycle, or motorized quadricycle, if operated  
6 by a person who, by reason of physical disability, is otherwise  
7 unable to move about as a pedestrian.  
8 (c) For purposes of Chapter 6 (commencing with Section 3000)  
9 of Division 2, “motor vehicle” includes a recreational vehicle as  
10 that term is defined in subdivision (a) of Section 18010 of the  
11 Health and Safety Code, but does not include a truck camper.  
12 SEC. 2. Section 426 of the Vehicle Code is amended to read:  
13 426. “New motor vehicle dealer” is a dealer, as defined in  
14 Section 285, who, in addition to the requirements of that section,  
15 either acquires for resale new and unregistered motor vehicles  
16 from manufacturers or distributors of those motor vehicles or  
17 acquires for resale new and unregistered off-highway motorcycles  
18 from manufacturers or distributors of the vehicles. No distinction  
19 shall be made, nor any different construction be given to the  
20 definition of “new motor vehicle dealer” and “dealer” except for  
21 the application of the provisions of Chapter 6 (commencing with  
22 Section 3000) of Division 2 and Section 11704.5. Sections 3001  
23 and 3003 do not, however, apply to a dealer who deals exclusively  
24 in motorcycles or recreational vehicles, as defined in subdivision  
25 (a) of Section 18010 of the Health and Safety Code.



SEC. 3. Section 3001 of the Vehicle Code is amended to read:

3001. (a) Four of the appointive members of the board shall be new motor vehicle dealers as defined in Section 426 who have engaged for a period of not less than five years preceding their appointment in activities regulated by Article 1 (commencing with Section 11700) of Chapter 4 of Division 5. These members shall be appointed by the Governor.

(b) Each of the five remaining appointive members shall be a public member who is not a licentiate under Article 1 (commencing with Section 11700) or 2 (commencing with Section 11800) of Chapter 4 of Division 5 or an employee of such licentiate at the time of ~~such~~ appointment and one of these five appointive members shall have been admitted to practice law in the state for at least 10 years immediately preceding his *or her* appointment. One public member shall be appointed by the Senate ~~Rules Committee~~ *committee on Rules*, one by the Speaker of the Assembly, and three by the Governor.

(c) Each member shall be of good moral character.

(d) This section does not apply to a dealer who deals exclusively in motorcycles or ~~recreation~~ *recreational* vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.

SEC. 4. Section 3003 of the Vehicle Code is amended to read:

3003. (a) Each appointive member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his *or her* successor or until one year has elapsed since the expiration of the time for which he or she was appointed, whichever occurs first.

(b) The terms of the members of the board first appointed shall expire as follows: one public member and one new motor vehicle dealer member, January 15, 1969; two public members and one new motor vehicle dealer member, January 15, 1970; two public members and two new motor vehicle dealer members, January 15, 1971. The terms shall thereupon expire in the same relative order.

(c) Vacancies occurring shall be filled by appointment for the unexpired term.

This section does not apply to a dealer who deals exclusively in motorcycles or recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.

SEC. 5. Section 3051 of the Vehicle Code is amended to read:

1     3051. This chapter does not apply to any person licensed as a  
2 transporter under Article 1 (commencing with Section 11700) or  
3 as a salesperson under Article 2 (commencing with Section 11800)  
4 of Chapter 4 of Division 5, or to any licensee who is not a new  
5 motor vehicle dealer, motor vehicle manufacturer, manufacturer  
6 branch, new motor vehicle distributor, distributor branch, or  
7 representative. This chapter does not apply to transactions  
8 involving “mobilehomes,” as defined in Section 18008 of the  
9 Health and Safety Code, “recreational vehicles,” as defined in  
10 subdivision (b) of Section 18010 of the Health and Safety Code,  
11 truck campers, “commercial coaches,” as defined in Section  
12 18001.8 of the Health and Safety Code, or off-highway motor  
13 vehicles subject to identification, as defined in Section 38012,  
14 except off-highway motorcycles, as defined in Section 436, and  
15 all-terrain vehicles, as defined in Section 111. Except as otherwise  
16 provided in this chapter, this chapter applies to a new motor  
17 vehicle dealer as defined in Section 426, a dealer of new  
18 recreational vehicles, as defined in subdivision (a) of Section  
19 18010 of the Health and Safety Code, except a dealer who deals  
20 exclusively in truck campers, a vehicle manufacturer as defined in  
21 Section 672, a manufacturer branch as defined in Section 389, a  
22 distributor as defined in Section 296, a distributor branch as  
23 defined in Section 297, a representative as defined in Section 512,  
24 or an applicant therefor.

25     SEC. 6. Section 3062 of the Vehicle Code is amended to read:  
26     3062. (a) (1) Except as otherwise provided in subdivision  
27 (b), if a franchisor seeks to enter into a franchise establishing an  
28 additional motor vehicle dealership within a relevant market area  
29 where the same line-make is then represented, or seeks to relocate  
30 an existing motor vehicle dealership, the franchisor shall, in  
31 writing, first notify the board and each franchisee in that line-make  
32 in the relevant market area of the franchisor’s intention to establish  
33 an additional dealership or to relocate an existing dealership within  
34 or into that market area. Within 20 days of receiving the notice,  
35 satisfying the requirements of this section, or within 20 days after  
36 the end of any appeal procedure provided by the franchisor, any  
37 franchisee required to be given the notice may file with the board  
38 a protest to the establishing or relocating of the dealership. If,  
39 within this time, a franchisee files with the board a request for  
40 additional time to file a protest, the board or its secretary, upon a



showing of good cause, may grant an additional 10 days to file the protest. When ~~such~~ a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor ~~shall~~ *may* not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

(2) If a franchisor seeks to enter into a franchise that authorizes a satellite warranty facility to be established at, or relocated to, a proposed location which is within two miles of any dealership of the same line-make, the franchisor shall first give notice in writing of the franchisor's intention to establish or relocate a satellite warranty facility at the proposed location to the board and each franchisee operating a dealership of the same line-make within two miles of the proposed location. Within 20 days of receiving the notice satisfying the requirements of this section, or within 20 days after the end of any appeal procedure provided by the franchisor, any franchisee required to be given the notice may file with the board a protest to the establishing or relocating of the satellite warranty facility. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When ~~such~~ a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor ~~shall~~ *may* not establish or relocate the proposed satellite warranty facility until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the satellite warranty facility. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

(3) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and

1 have a hearing on your protest under the terms of the California  
2 Vehicle Code if you oppose this action. You must file your protest  
3 with the board within 20 days of your receipt of this notice, or  
4 within 20 days after the end of any appeal procedure that is  
5 provided by us to you. If within this time you file with the board  
6 a request for additional time to file a protest, the board or its  
7 secretary, upon a showing of good cause, may grant you an  
8 additional 10 days to file the protest.”

9

10 (b) Subdivision (a) does not apply to either of the following:

11 (1) The relocation of an existing dealership to any location that  
12 is both within the same city as, and is within one mile from, the  
13 existing dealership location.

14 (2) The establishment at any location that is both within the  
15 same city as, and is within one-quarter mile from, the location of  
16 a dealership of the same line-make that has been out of operation  
17 for less than 90 days.

18 (c) Subdivision (a) does not apply to either of the following:

19 (1) A display of vehicles at a fair, exposition, or similar exhibit  
20 if no actual sales are made at the event and the display does not  
21 exceed 30 days. This subdivision ~~shall~~ *may* not be construed to  
22 prohibit a new vehicle dealer from establishing a branch office for  
23 the purpose of selling vehicles at the fair, exposition, or similar  
24 exhibit, even though that the event is sponsored by a financial  
25 institution, as defined in Section 31041 of the Financial Code or  
26 by a financial institution and a licensed dealer. The establishment  
27 of these branch offices, however, shall be in accordance with  
28 subdivision (a), where applicable.

29 (2) An annual show sponsored by a national trade association  
30 of recreational vehicle manufacturers that complies with all of the  
31 requirements of subdivision (d) of Section 11713.15.

32 (d) For the purposes of this section, the reopening of a  
33 dealership that has not been in operation for one year or more shall  
34 be deemed the establishment of an additional motor vehicle  
35 dealership.

36 (e) As used in this section, the following definitions apply:

37 (1) “Motor vehicle dealership” or “dealership” means any  
38 authorized facility at which a franchisee offers for sale or lease,  
39 displays for sale or lease, or sells or leases new motor vehicles.



1     (2) “Satellite warranty facility” means any facility operated by  
2 a franchisee where authorized warranty repairs and service are  
3 performed and the offer for sale or lease, the display for sale or  
4 lease, or the sale or lease of new motor vehicles is not authorized  
5 to take place.

6     (3) “Line-make,” as it applies solely to the sale of any new  
7 recreational vehicle, means that group or groups of recreational  
8 vehicles, as defined by the terms of a written agreement that  
9 complies with Section 331.

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